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Shushok & McCoy, Inc., Matthew J. Travis,
Matt Turner and Richard Birdwell

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WMCV PHASE 3, LLC, a Delaware limited
liability company,

Plaintiff,

vs.

SHUSHOK & MCCOY, INC., a Texas
corporation; MATTHEW J. TRAVIS, an
individual; MATT TURNER, an individual;
RICHARD BIRDWELL, an individual;
GLOBAL ACCENTS, INC., a California
corporation; COUTURE INTERNATIONAL,
INC., a Quebec corporation; DOES I through
X, inclusive; ROE ENTITIES I through X,
inclusive,

Defendants.

GLOBAL ACCENTS, INC.,

Counterclaimants,

vs.

WMCV PHASE 3, LLC, a Delaware limited
liability company,

Counterdefendants.

GLOBAL ACCENTS, INC.,

Crossclaimants,

vs.

SHUSHOK & MCCOY, INC., a Texas

Case No. 2:10-CV-00661-GMN-RJJ

**BAILEY ♦ KENNEDY'S
EMERGENCY MOTION TO
WITHDRAW AS COUNSEL FOR
SHUSHOK & MCCOY, INC.,
MATTHEW J. TRAVIS, MATT
TURNER, AND RICHARD
BIRDWELL**

1 corporation; MATTHEW J. TRAVIS, an)
 2 individual; MATT TURNER, an individual;)
 3 and RICHARD BIRDWELL, an individual,)
 _____ Crossdefendants.)

4
 5 Bailey♦Kennedy, counsel of record for Defendants Shushok & McCoy, Inc., Matthew J.
 6 Travis, Matt Turner, and Richard Birdwell (“Shushok Defendants”), moves this Court for leave
 7 to withdraw as counsel for the Shushok Defendants pursuant to LR IA 10-6(b). This emergency
 8 motion is supported by the Declaration of Brandon P. Kemble, attached as Exhibit A, and the
 9 following Memorandum of Points and Authorities.

10 DATED this 16th day of March, 2011.

11 BAILEY♦KENNEDY

12 By: /s/ Brandon P. Kemble
 13 JOSHUA M. DICKEY (NSB 6621)
 14 BRANDON P. KEMBLE (NSB 11175)
 8984 Spanish Ridge Avenue
 Las Vegas, Nevada 89148

15 *Attorneys for Defendants*

16 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**
 17 **BAILEY♦KENNEDY’S EMERGENCY MOTION FOR LEAVE TO WITHDRAW**
 18 **AS COUNSEL FOR THE SHUSHOK DEFENDANTS**

19 Nevada Rule of Professional Conduct 1.16 provides that a lawyer may withdraw from
 20 representing a client if “the client fails to substantially fulfill an obligation to the lawyer” and the
 21 client “has been given reasonable warning that the lawyer will withdraw unless the obligation is
 22 fulfilled.” N.R.P.C. 1.16(b)(5). Likewise Rule 1.16 provides that an attorney may withdraw if
 23 the “representation will result in an unreasonable financial burden on the lawyer.” N.R.P.C
 24 1.16(b)(6).

25 Since August 2010, the Shushok Defendants have had a substantial outstanding balance
 26 owing to Bailey♦Kennedy. (Ex. A, at ¶ 2). On numerous occasions, Bailey♦Kennedy advised
 27 the Shushok Defendants’—through their Texas counsel (“Texas Counsel”)—of this outstanding
 28 balance due, including several recent telephone conversations advising that Bailey♦Kennedy

1 could not continue work unless the balance was paid. (*Id.* at ¶ 3.) Nevertheless, the Shushok
2 Defendants have failed to pay the outstanding bill owed to Bailey❖Kennedy. (*Id.* at ¶ 4.) It is
3 not anticipated that Bailey❖Kennedy's withdrawal will delay discovery or trial in this case, and
4 even if so, there is ample time for the parties to file a stipulation or make a motion to extend
5 discovery if necessary. (*Id.* at ¶ 5.)

6 To the best of my knowledge, the Shushok Defendants may be reached through Texas
7 Counsel or individually as follows:

8 Ryan Bigbee, Esq.
9 Craig, Terrill, Hale & Grantham, LLP
10 9816 Slide Road, Suite 201
11 Lubbock, TX 79424
12 Telephone: (806) 744-3232
13 Facsimile: (806) 744-2211
14 E-mail: rbigbee@cthglawfirm.com

Shushok & McCoy, Inc.
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Grapevine, TX 76051

13 Matthew Travis
14 3300 Tori Trail
Keller, TX 76248

Richard Birdwell
2804 Red Wolf Drive
Fort Worth, TX 76244

15 Matt Turner
16 c/o Shushok & McCoy, Inc.
17 2637 Ira E. Woods, Suite 100
Grapevine, TX 76051

18 CONCLUSION

19 Based on the Shushok Defendants' inability to pay Bailey❖Kennedy for work performed
20 on their behalf, Bailey❖Kennedy respectfully requests that its Motion for Leave to Withdraw as
21 Counsel be granted.

22 DATED this 16th day of March, 2011.

23 BAILEY❖KENNEDY

24
25 By: /s/ Brandon P. Kemble
26 JOSHUA M. DICKEY (NSB 6621)
27 BRANDON P. KEMBLE (NSB 11175)
28 8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

Attorneys for Defendants

CERTIFICATE OF SERVICE

In accordance with Fed. R. Civ. P. 5, I certify that I am an employee of Bailey❖Kennedy and that on the 16th day of March, 2011, a copy of the foregoing BAILEY❖KENNEDY'S EMERGENCY MOTION TO WITHDRAW AS COUNSEL FOR SHUSHOK & MCCOY, INC., MATTHEW J. TRAVIS, MATT TURNER, AND RICHARD BIRDWELL was served on the parties by filing and serving the same using the ECF system and/or by U.S. Mail, postage prepaid, as follows:

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/s/Cheryl Snider
Cheryl Snider, an Employee of
BAILEY❖KENNEDY

EXHIBIT A

EXHIBIT A

**DECLARATION OF BRANDON P. KEMBLE IN SUPPORT OF
BAILEY❖KENNEDY'S MOTION FOR LEAVE TO WITHDRAW
AS COUNSEL FOR DEFENDANTS SHUSHOK & MCCOY, INC.,
MATTHEW J. TRAVIS, MATT TURNER, AND RICHARD BIRDWELL**

I, Brandon P. Kemble, declare as follows:

1. I am an attorney with the law firm Bailey❖Kennedy, counsel of record for Defendants Shushok & McCoy, Inc., Matthew J. Travis, Matt Turner, and Richard Birdwell ("Shushok Defendants") in *WMCV Phase 3, LLC v. Shushok & McCoy, Inc. et al.*, Case No. 2:10-CV-00661-GMN-RJJ, pending before this Court.

2. Since August 2010, the Shushok Defendants have had a substantial outstanding balance owing to Bailey❖Kennedy.

3. On numerous occasions, Bailey❖Kennedy advised the Shushok Defendants'—through their Texas counsel ("Texas Counsel")—of this outstanding balance due, including several recent telephone conversations advising that Bailey❖Kennedy could not continue work unless the balance was paid.

4. Nevertheless, the Shushok Defendants have failed to pay the outstanding bill owed to Bailey❖Kennedy.

5. It is not anticipated that Bailey❖Kennedy's withdrawal will delay discovery or trial in this case, and even if so, there is ample time for the parties to file a stipulation or make a motion to extend discovery if necessary.

/s/Brandon P. Kemble
BRANDON P. KEMBLE